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December 3, 2018

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Christal Dennis
Date: 2018.12.03
15:55:13 -0500

Federal Election Commission
Office of Complaints Examination
& Legal Administration
Attn: Christal Dennis, Paralegal
1050 First Street, NE
Washington, DC 20463

Via E-Mail (CELA@fec.gov)

Re: Respondent Rick Neal for Congress's Response to Complaint Filed in MUR 7541

To Whom it May Concern:

This office is legal counsel to Rick Neal for Congress (C00652651) (the "Committee"), one of the Respondents named in MUR 7541. On November 19, 2018, the Committee received the Commission's November 14, 2018 letter containing a copy of the Complaint filed by the Libertarian Party of Ohio ("Complainant") in MUR 7541. Enclosed is the Statement of Designation of Counsel, which authorizes my law firm to correspond with the Federal Election Commission on the Committee's behalf in the matter.

The Complaint alleges that the Committee violated federal law when the Committee's candidate, Rick Neal, participated in an October 19, 2018 debate hosted by co-Respondent Columbus Metropolitan Club (the "CMC") featuring candidates for the 15th Congressional District of Ohio. Complaint ¶ 59. The Complaint claims that the debate was not "properly staged" because the Complainant's candidate for the 15th Congressional District of Ohio, Johnathan Miller, was not invited to participate in the debate; only Mr. Neal and the incumbent Congressman (and co-Respondent) Steve Stivers were invited. *Id.* In turn, the Complaint contends that because the debate was not properly staged, Mr. Neal's participation in the debate constitutes receipt of an impermissible campaign contribution in violation of 2 U.S.C. § 441b(a). *Id.*

Mr. Neal's participation in the October 19, 2018 debate did not violate 2 U.S.C. § 441b(a) because the debate was properly staged with respect to which candidates could participate. The FEC's regulations are clear that "[f]unds provided to defray costs incurred in staging candidate debates in accordance with the provisions of 11 CFR 110.13 and 114.4(f) are not contributions" and are also "not expenditures." 11 CFR §§ 100.92, 100.154. As to which candidates may participate in debates, staging organizations "must use pre-established objective criteria" and "shall not use nomination by particular party as the sole objective criterion to determine whether to include a candidate in a debate." 11 CFR 110.13(c).

The CMC had pre-established objective criteria for determining which candidates could participate in the October 19, 2018 debate for the 15th Congressional District of Ohio. The CMC's criteria were that candidates must (1) "be on the ballot as of the date of the Debate," (2) "meet all

other minimum criteria under [the Federal Election Campaign Act],” and (3) either “must have raised and spent \$100,000 in compliance with the Act as reflected in the last filing statement prior to the Debate” or “[m]ust have achieved at least 5% in any published Poll prior to the Debate.” See, Attachment C to Complaint.

The two candidates who were invited to the debate, including Mr. Neal, satisfied the CMC’s pre-established objective debate criteria, while the Complainant’s candidate, Mr. Miller, did not. Although all three candidates were on the ballot as of the date of the debate, and although there were not any published polls prior to the debate, only Mr. Neal and Congressman Stivers had met the minimum criteria of the Federal Election Campaign Act and had raised and spent at least \$100,000 as of the last filing statement prior to the debate. Indeed, the campaign committees for Mr. Neal and Congressman Stivers had both reported activity far in excess of the \$100,000 threshold required for participation in the CMC’s debate.¹ As of the last filing statement prior to the debate, Mr. Neal (and the Committee) had reported \$1,268,846.96 in total receipts and \$1,191,957.88 in total disbursements for the 2018 election cycle.² Similarly, Congressman Stivers’s committee had reported \$3,887,192.76 in total receipts and \$3,687,362.45 in total disbursements for the 2018 election cycle.³ In contrast, Mr. Miller’s campaign committee (C00639831) never reported having *any* activity during the 2018 election cycle, let alone at least \$100,000 in activity.⁴ Moreover, Mr. Miller *terminated* his committee on September 25, 2018, more than three weeks prior to the debate.⁵ Thus, Mr. Miller did not satisfy the CMC’s pre-established objective debate criteria.

In short, the CMC’s October 19, 2018 debate featuring two candidates for the 15th Congressional District of Ohio was held in accordance with federal regulations. Therefore, the Committee did not receive an impermissible contribution from the CMC when Mr. Neal participated in the debate. For these reasons, the Committee requests that the Commission take no action in this matter.

Respectfully submitted,



Derek S. Clinger, Esq.

Encl: Statement of Designation of Counsel

¹ Congressman Stivers’s campaign committee is Stivers for Congress (C00441352).

² See, Financial Summary of Rick Neal for Congress, <https://www.fec.gov/data/candidate/H8OH15134/>.

³ See, Financial Summary of Stivers for Congress, <https://www.fec.gov/data/candidate/H8OH15076/>.

⁴ See, Financial Summary of Committee to Elect Johnathan Miller, <https://www.fec.gov/data/committee/C00639831/>.

⁵ See, Termination Report for Committee to Election Johnathan Miller, <http://docquery.fec.gov/cgi-bin/forms/C00639831/1263985/>.



FEDERAL ELECTION COMMISSION
 1050 First Street, NE
 Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL

Provide one form for each Respondent/Witness

EMAIL cela@fec.gov

FAX 202-219-3923

ARMUR/RR/P-MUR# MUR 7541

Name of Counsel: Donald J. McTigue, J. Corey Colombo, Derek S. Clinger, Ben F.C. Wallace

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The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

12/3/2010
Date

(Signature - Respondent/Agent/Treasurer)

Treasurer

Title

Jason H. Calhoun

(Name - Please Print)

RESPONDENT:

Rick Neal for Congress. Jason H. Calhoun, Treasurer.

(Please print Committee Name/ Company Name/Individual Named in Notification Letter)

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This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

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